

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEWART TITLE GUARANTY
COMPANY,

Plaintiff,

vs.

KARLA SUE LOCKMAN, *et al.*,

Defendants.

Lead Case No. 5:05-cv-92

Hon. Hugh W. Brenneman, Jr.

-and-

FIRST AMERICAN TITLE INSURANCE
COMPANY,

Plaintiff,

vs.

KARLA SUE LOCKMAN, *et al.*,

Defendants.

Case No. 1:05-cv-736

Hon. Hugh W. Brenneman, Jr.

ORDER DISMISSING ACTION

On April 2, 2008, plaintiff Stewart Title Guaranty Company (“Stewart Title”) filed a “Notice of voluntary dismissal as to Stewart Title’s remaining claims against Karla Lockman and Kevin Lockman pursuant to Fed. R. Civ. P. 41(A)(2) [sic]” (docket no. 131). While Stewart Title has filed a “notice” of voluntary dismissal, this is in actuality a motion for voluntary dismissal. [A plaintiff files a notice of voluntary dismiss when seeking to obtain a dismissal without a court order. *See* Fed. R. Civ. P. 41(a)(1)(A)(i) (a plaintiff may dismiss an action without a court order by filing “a notice of dismissal before the opposing party serves either an answer or a motion for summary

judgment”). Stewart Title cannot obtain a dismissal without a court order based upon a notice of dismissal because both Karla and Kevin Lockman have filed answers.]

Stewart Title seeks a voluntary dismissal pursuant to Fed. R. Civ. P. 41(a)(2), which provides in pertinent part as follows:

Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper. If a defendant has pleaded a counterclaim before being served with the plaintiff's motion to dismiss, the action may be dismissed over the defendant's objection only if the counterclaim can remain pending for independent adjudication. Unless the order states otherwise, a dismissal under this paragraph (2) is without prejudice.

Stewart Title has dismissed its claims against the other defendants in this case, leaving Karla and Kevin Lockman as the sole remaining defendants. The record reflects that defendants Karla and Kevin Lockman have not filed any counterclaims in this matter. Indeed, they have taken no steps to defend themselves in this action since their attorney withdrew.

Accordingly, Stewart Title's motion to voluntarily dismiss its claims against Karla and Kevin Lockman (docket no. 131) is **GRANTED**.

The lead case, No. 5:05-cv-92, is now **CLOSED**.

IT IS SO ORDERED.

Dated: April 7, 2008

/s/ Hugh W. Brenneman, Jr.
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge